Amendments to the Drawings

The attached sheet(s) of drawings include changes to Fig(s) 2 and 3. The sheet(s), which include Fig(s) 1, 2, 3 and 4, replace the original sheet(s) including Fig(s) 1, 2, 3 and 4.

Attachment: Four (4) Replacement Sheet(s)

REMARKS

Upon entry of the present amendments, claims 1-35 will be pending in the present application. Claims 1-25, 27, 29-32 and 34-35 have been amended variously herein as described below. No new matter has been added.

In the Official Action, dated January 24, 2006, the drawings were objected to as containing informalities. The specification was objected to as containing informalities. Claims 1-35 were objected to as containing various informalities. Claims 7-25 and 31-35 were rejected under 35 U.S.C. §101 as being directed to non statutory subject matter. Claims 27 and 32 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claims 13-16, 17 and 19 were rejected under 35 U.S.C. §112, second paragraph, as indefinite.

Finally, claims 1-12, 20-26, 28, 31 and 33 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 6,301,579 to Becker ("Becker"). Claims 27, 29, 30, 32, 34 and 35 were rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Becker. Claims 13-19 were rejected under U.S.C. §103(a) as being unpatentable over Becker in view of U.S. Patent 6,865,573 to Hornick et al. ("Hornick").

As discussed below, the outstanding objections and rejections to the claims are respectfully traversed.

Objections to the Drawings

The drawings were objected to containing as containing smeared text and containing an incomplete sentence. The attached replacement drawings include a new copy of Figure 2 (with no changes made). Applicants apologize for the apparently mishandled copy which appears to have been provided. Additionally, with respect to the objection to the text in Figure 3, element 320 has been changed to provide a complete sentence. No new matter has been added.

The drawings were also objected to under 37 CFR 1.83(a) for allegedly not showing every feature of the invention specified in the claims. Applicants respectfully traverse this objection. While any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawings, Applicants respectfully submit such

essential structural detail is shown in the drawings as filed, when considered with the accompanying text. In this regard, drawings by their nature represent concepts, and the concepts recited in Applicants' claims are believed to be sufficiently represented in the drawings and accompanying text to convey the existence of the claim elements referred to in the Official Action. Reconsideration and withdrawal of the objection to the drawings is respectfully requested.

Objections to the Specification

The specification stands objected to as containing informalities.

In consideration of the objections, the title has been amended in order to resolve the informalities. Reconsideration and withdrawal of the objection to the title is respectfully requested.

The specification stands objected to as not provided antecedent basis for the phrase "computer-readable medium." Sufficient antecedent basis is believed to have been provided, however, e.g., in the claims as filed (it is well settled Federal Circuit case law that the originally filed claims form a part of the specification), and at least at paragraphs [0032], [0036], and [0060] of Applicants' specification. Moreover, the Figures are believed to depict storage structures (e.g., Fig. 2) that one of ordinary skill in the art would appreciate as disclosing a "computer readable medium." Reconsideration and withdrawal to the objection to the specification is respectfully request.

Objections to the Claims

The claims are generally objected to because of the use of the word "where" instead of "wherein." While the term "where" by Applicants is believed to be interchangeable with the term "wherein" in this context, Applicants have replaced occurrences of the term "where" with "wherein" where appropriate to reduce the number of issues for consideration in the present application.

Claim 16 has also been objected to due to a typographical error. Claim 16 has been amended to correct this error. Reconsideration and withdrawal of the objections to the claims is respectfully requested.

35 U.S.C. § 101 Claim Rejections

Claims 7-12 and 31-35 stand rejected under 35 U.S.C. § 101 for allegedly covering ephemeral propagation media. Applicants have amended claims 7 and 31 herein to recite that the claimed computer readable media are "tangibly embodied" computer readable media to avoid ephemeral interpretations. Reconsideration and withdrawal of the rejections to 7-12 and 31-35 under 35 U.S.C. § 101 is respectfully requested.

With respect to claim 13, objected to as software *per se* for its recitation of an "application programming interface." While Applicants are aware of no such rule for APIs, to advance the prosecution of the present application, Applicants have amended claim 13 herein to recite that the claimed API is tangibly embodied in at least one computer readable medium.

With respect to claim 19, Applicants are also aware of no *per se* Patent Office rule that applies to "databases" that makes a claim that includes a "database" element *per se* non-statutory software. In this regard, it has been well settled that "software" is patentable subject matter. See, e.g., State Street Bank & Trust Co. v. Signature Financial Group, 149 F.3d 1368 (Fed. Cir. 1998).

As to the rejections of claims 20-25, in view of claim 31, it is respectfully submitted that claim 20 includes means plus function element(s), and as such, claims 20-25 are not construed with reference to claim 31, but are construed instead under 35 U.S.C. § 112, para. 6, which provides that "an element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim *shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.*" Reconsideration of claims 20-25 with reference to the corresponding structure disclosed in the specification is thus respectfully requested.

35 U.S.C. § 112 Claim Rejections

Claims 27 and 32 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 13-16, 17 and 19 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite.

In consideration of the rejection to claims 27 and 32, claims 27 and 32 have been amended in order to more clearly recite the subject matter of the invention. No new matter

has been added. The amendment is supported, e.g., at least at paragraph [0056] of the specification.

In consideration of the rejection to claims 13-16, 17 and 19, the rejection to claims 13-16 is respectfully traversed. Claims 13 does include limitations associated with the claimed API – viz. "wherein said application programming interface <u>receives</u> as input creation operation data comprising data comprising the identity of mining structure variables from among said set of at least one variable; for each case, <u>retrieves</u> a stored value for each of said at least one mining structure variables from said data set training data; <u>performs</u> mining model initial processing on said retrieved values; and <u>stores</u> the results of said mining model initial processing." (emphasis added) Thus, the API clearly performs according to one or more action verbs, and is not merely defined by an intended use. Reconsideration and withdrawal to the rejection to claims 13-16 is respectfully requested.

Claim 17 has been amended per the suggestion on p. 6 of the Official Action. Claim 19 has been amended to clarify a matter of antecedent basis for the term "data set training data." No new matter has been added. Reconsideration and withdrawal of the rejections to claims 17 and 19 is thus respectfully requested.

35 U.S.C. §§ 102, 103 Claim Rejections

Claims 1-12, 20-26, 28, 31 and 33 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 6,301,579 to Becker ("Becker"). Claims 27, 29, 30, 32, 34 and 35 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Becker. Claims 13-19 stand rejected under U.S.C. §103(a) as being unpatentable over Becker in view of U.S. Patent 6,865,573 to Hornick et al. ("Hornick").

In this regard, it is believed that Becker does not teach or suggest Applicants' invention. For instance, claim 1 recites "<u>retrieving a stored value</u> for each of said at least one mining structure variable <u>from said data set training data</u>; performing mining model initial processing on said retrieved stored value; and storing the results of the mining model initial processing." (emphasis added) Thus, the present invention includes algorithms that operate on existing data set training data.

However, as Applicants understand the description found at Cols. 10-11 of Becker, in contrast, Becker discloses that step 410 is used to create "a training set of data... [which]

provides the foundation or base level of records from which a data structure, such as a decision table classifier, can be created." Col. 11, lines 45-48. Thus, step 410 of Becker cannot be said to retrieve a stored value ... from the data set training data <u>because step 410 creates the training data</u> itself.

Simply put, step 410 of Becker cannot said to operate upon training data, which it creates, prior to its creation – since that is a paradoxical scenario.
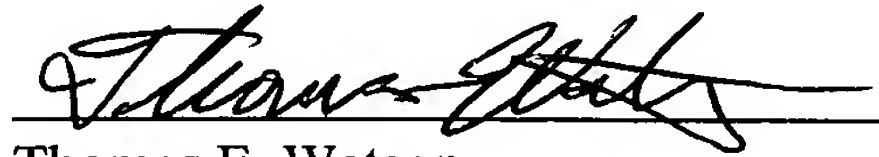
Each of independent claims 1, 7, 13, 19, 20, 26 and 31 are believed allowable over Becker for at least the same reason. Hornick was cited for reasons relating to the dependent claims, but also fails to cure the above-identified deficiency of root reference Becker with respect to Applicants' independent claims. Claims 2-6, 8-12, 14-18, 21-25, 27-30 and 32-35 depend from claims 1, 7, 13, 19, 20, 26 and 31, either directly or indirectly, and are believed allowable at least for the same reason.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §§ 102, 103 is respectfully requested.

Conclusion

Applicant believes that the present reply is responsive to each of the points raised by the Examiner in the Office Action, and submits that claims 1-35 of the application are in condition for allowance. Favorable consideration and passage to issue of the application at the Examiner's earliest convenience is earnestly solicited.

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